

# Congress of the United States

Washington, DC 20515

March 12, 2010

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530-0001

Dear General Holder:

We write to express concern regarding the activities of the Association of Community Organizations for Reform Now ("ACORN") and the Justice Department's failure to investigate the organization despite overwhelming evidence of voter registration fraud and other criminal conduct. As you are no doubt aware, several states and localities have issued indictments related to activities by ACORN employees and volunteers during the 2008 election.<sup>1</sup>

On March 11, 2010, Judicial Watch, a government watchdog group, provided the most recent example of ACORN-related voter fraud.<sup>2</sup> Judicial Watch obtained hundreds of internal documents outlining FBI investigations into voter registration fraud by ACORN during the 2008 election.

According to Judicial Watch, the documents "include internal FBI memoranda, signed affidavits, subpoenas, fraudulent voter registration cards, and publications describing ACORN's policies and practices. The documents also include details regarding numerous allegations of corruption extending beyond voter registration fraud, to include attempts by ACORN employees to coerce workers to participate in campaign activities on behalf of Democratic candidates."<sup>3</sup>

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<sup>1</sup> Steve Friess, *Acorn Charged in Voter Registration Fraud Case in Nevada*, NEW YORK TIMES, May 5, 2009.

<sup>2</sup> PRESS RELEASE, *Obama Justice Department Shut Down Federal ACORN Investigation According to Documents Obtained by Judicial Watch*, JUDICIAL WATCH, available at: <http://www.judicialwatch.org>.

<sup>3</sup> *Id.*

Judicial Watch also reports to have obtained an FBI document that references a “draft Intelligence Bulletin . . . [which] concludes that ACORN’s employment practices perpetuate fraudulent voter registration.” This type of nationwide fraud is the reason why in 2009, House Judiciary Ranking Member Lamar Smith called on the Justice Department to investigate ACORN as a criminally corrupt organization under federal RICO laws.

Voter registration fraud threatens the integrity of our democracy. As the chief law enforcement agency in the nation, the Justice Department has a responsibility to aggressively investigate any allegations of voter registration fraud to ensure that our election process is not corrupted.

Unfortunately, it appears that President Obama’s close ties to ACORN—and those of Justice Department officials—may be the reason why the Justice Department refuses to investigate allegations against ACORN.

Months ago, the staff of the Oversight and Government Reform Committee contacted the Office of Personnel at the Department of Justice (“DOJ”) and was able to obtain the complete list of all political appointees at the Justice Department.

- Of the 137 political appointees currently working at DOJ; 21 of these (15%) have a reasonable connection to ACORN and four (3%) have a substantial connection to ACORN.

Based on this list, we wanted to highlight a few of Oversight’s findings concerning DOJ political appointee relationships with ACORN:

- **You** were a member of the board of directors of the D.C.-based Meyer Foundation.<sup>4</sup> The Meyer Foundation helped initiate the Community Development Support Collaborative in partnership with the Fannie Mae Foundation.<sup>5</sup> According to internal ACORN documents, the Meyer Foundation is a major ACORN donor and helped support ACORN in getting loan modifications from Countrywide Financial and several banks.<sup>6</sup>

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<sup>4</sup> Eric Holder, Board of Directors, Meyer Foundation, *available at*: [http://www.meyerfoundation.org/about\\_meyer/board\\_of\\_directors/holder](http://www.meyerfoundation.org/about_meyer/board_of_directors/holder)

<sup>5</sup> See COMMUNITY DEVELOPMENT SUPPORT COLLABORATIVE, *available at*: <http://www.cdsc.org/partners.html>.

<sup>6</sup> 3 3 08 2007-2008 MasterDonorTracking.xls (on file with author).

- **Spencer Overton** is on the board of the National Voting Rights Institute, which represents ACORN in litigation battles over the National Voters Rights Act.<sup>7</sup> Overton was an election law professor at George Washington University law school. In a Project Vote sponsored study concluding that allegations of voting fraud are partisan attacks, the author cited Spencer Overton heavily for the proposition that voter identification requirements are racist.<sup>8</sup> In *Stealing Democracy*, Overton specifically recommends that people reach out to ACORN.<sup>9</sup> According to the *Washington Times*, "Overton is a noted critic of requiring voters to show identification at the polls."<sup>10</sup>
- **Miriam Vogel** represented ACORN and Project Vote against the state of Michigan.<sup>11</sup>
- **Rita Aguilar** is chair of the National Lawyers Council Committee of the Democratic Lawyers Council, which has supported ACORN's legal efforts.<sup>12</sup>
- **Thomas E. Perez** was formerly on the Board of Casa de Maryland, an ACORN partner.
- **Julie Fernandes** was the Senior Policy Analyst/Special Counsel to the Leadership Conference on Civil Rights (LCCR), for which ACORN is a council member.
- **Stuart F. Delery** was the lawyer for the Child Welfare League of America, a partner with ACORN on housing issues.<sup>13</sup>

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<sup>7</sup> See National Voter Rights Institute, available at: <http://www.nvri.org/about/new.shtml>

<sup>8</sup> VOTER FRAUD, available at: [http://www.docstoc.com/docs/12839247/Voter-Fraud-according-to-Project-Vote-\(an-ACORN-project\)\)](http://www.docstoc.com/docs/12839247/Voter-Fraud-according-to-Project-Vote-(an-ACORN-project))) (on file with author as separate .pdf).

<sup>9</sup> STEALING DEMOCRACY, available at: <http://www.stealingdemocracy.com/involved.cfm>

<sup>10</sup> Editorial, *Panther Politics: White House interference derails Justice?* THE WASH. TIMES, Jan. 19, 2010 at B.

<sup>11</sup> See [http://brennan.3cdn.net/09b67b8e967612bc9c\\_75m6bnato.pdf](http://brennan.3cdn.net/09b67b8e967612bc9c_75m6bnato.pdf)

<sup>12</sup> DEMOCRATIC LAW BRIEFS, available at: <http://www.dcdlc.org/briefs/03-34.pdf>

<sup>13</sup> CHILD WELFARE LEAGUE OF AMERICA, Letter to Dennis Hastert, available at: <http://www.cwla.org/advocacy/housingltr051019.htm>.

- **Jocelyn Samuels** was former Vice President of the National Women's Law Center, which has partnered with ACORN, and its leaders, particularly President Maud Hurd.
- **Monica Ramirez** was formerly a counsel at the ACLU, which has represented ACORN in several lawsuits.
- **Brian Hauck** has worked with the ACLU to represent plaintiffs in fair housing disputes; the ACLU litigation portfolio includes several representations for ACORN.
- **Becky Monroe** was formerly a policy counsel for the Constitution Project, a partner with ACORN.
- **Mary J. Boast** worked at Debevoise & Plimpton LLP, which partnered with ACORN for pro-bono work.<sup>14</sup>

Political favoritism has no place at the Justice Department. We've already seen this administration dismiss one case against a political ally—the New Black Panther Party—for no apparent reason. We remain concerned that politicization at the Justice Department once again may result in the administration's political friends getting a free pass.

Given the extensive and long-standing relations between the President and ACORN, we have called on the Justice Department to appoint a special, independent counsel to lead the investigation into ACORN and to handle any resulting prosecutions. The litany of close collaborations between ACORN and many senior political appointees at the Department set forth above lends further justification to these earlier requests. We renew the request that you appoint a special counsel for ACORN-related criminal investigations.

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<sup>14</sup> DEVOISE PLIMPTON L.L.P., *available at*:

[http://74.125.93.132/search?q=cache:9Syr\\_8MOvD4J:www.debevoise.com/pro\\_bono/%3Fmode%3Dprint+%22Debevoise%22+ACORN&cd=1&hl=en&ct=clnk&gl=us](http://74.125.93.132/search?q=cache:9Syr_8MOvD4J:www.debevoise.com/pro_bono/%3Fmode%3Dprint+%22Debevoise%22+ACORN&cd=1&hl=en&ct=clnk&gl=us). Notice this "cached" site shows the partnership with ACORN, but if you go here: [http://www.debevoise.com/pro\\_bono/?mode=print](http://www.debevoise.com/pro_bono/?mode=print) you notice "ACORN" was removed from the list.

The continued refusal of the Justice Department to investigate allegations against ACORN—despite mountains of evidence—raises serious concerns about the role politics plays in the Obama administration's prosecutorial decisions. Given our heightened concern about the politicization of the Justice Department, we request that you respond to the following questions on or before March 25, 2010:

1. Is the FBI currently investigating ACORN?<sup>15</sup>
2. Identify all communications between you, your staff, and any employee of the White House within the last two years regarding ACORN.
3. In a November 2, 2007 letter from Daniel G. Knauss, U.S. Attorney for the District of Arizona, and Gary M. Restaino, Assistant U.S. Attorney, to an unidentified agent, the U.S. Attorneys wrote, "[t]heoretically, ACORN might be charged with obstruction of justice for its failure to preserve the information."<sup>16</sup> Additionally, the U.S. Attorneys Office claimed there was an "absence of evidence to prosecute ACORN as an entity[.]"<sup>17</sup>
  - a. Given evidence presented in the Committee on Oversight and Government Reform's February 18, 2010 Report, showing that ACORN had engaged in a conspiracy where it had knowledge of its lower-level employees' bad acts, why has the Department of Justice failed to prosecute ACORN as an entity?
  - b. Given the patterns of ACORN's unwillingness to provide documents to the Justice Department, why has ACORN not been charged with obstruction?
  - c. Why did the DOJ direct the FBI to end its investigation into ACORN's voter registration activities in Connecticut, Arizona, and Washington state, despite evidence of wrongdoing? Produce all documents relating to this decision as well as identify all employees at the DOJ involved.

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<sup>15</sup> Robert Mueller Testimony, SENATE HEARING ON OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION, Sept. 16, 2009, *available at*: <http://www.senate.gov/fplayers/CommPlayer/commFlashPlayer.cfm?fn=judiciary091609&st=xxx> (84:55 - 87:45) ("I do not know where we are, clearly given what you have said, it is something in consultation with the Department of Justice that we would look at.")

<sup>16</sup> Letter from Daniel G. Knauss, United States Attorney, District of Arizona, U.S. Department of Justice to unidentified Agent, Nov. 2, 2007 at 2, n. 1.

<sup>17</sup> *Id.*

The Obama Administration claims that civil rights investigations are a top priority for the Justice Department. We can think of no better place to start than ensuring that the voter rights of *every* American are protected by rooting out fraud.

Thank you for your attention to this matter. If you have any questions, please contact Crystal Jezierski of the Committee on the Judiciary at (202) 225-6906 or Daniel Epstein of the House Committee on Oversight and Government Reform at (202) 225-5074.

Sincerely,



Lamar Smith  
Ranking Member  
Committee on the Judiciary



Darrell Issa  
Ranking Member  
Committee on Oversight  
and Government Reform

cc: The Honorable Edolphus Towns  
The Honorable John Conyers, Jr.  
Mary Patrice Brown, Acting Counsel, Office of Professional Responsibility